

# **DRUGGED DRIVING CONFERENCE**

March 4-6, 2019

Law Enforcement Administrative Facility (LEAF)



## **DRE TRIALS**

Presented by:

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Deputy Pinal County Attorney

Distributed by:

ARIZONA PROSECUTING ATTORNEYS' ADVISORY COUNCIL  
1951 West Camelback Road, Suite 202  
Phoenix, Arizona 85015

ELIZABETH ORTIZ  
EXECUTIVE DIRECTOR

# DRE TRIALS

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USING YOUR DRUG RECOGNITION EXPERT

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## ► Daubert Factors

- (1) whether the theory or technique in question can be and has been tested;
- (2) whether it has been subjected to peer review and publication;
- (3) its known or potential error rate;
- (4) the existence and maintenance of standards controlling its operation; and
- (5) whether it has attracted widespread acceptance within a relevant scientific community.

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- ▶ Breath Test
- ▶ Interview of arresting officer
- ▶ Preliminary Examination (1<sup>st</sup> pulse +)
- ▶ Examination of Eyes
- ▶ Divided attention tests (FSTs +)
- ▶ Vital signs
- ▶ Dark room examination
- ▶ Muscle tone examination
- ▶ Injection site examination
- ▶ Skin examinations
- ▶ Opinion of the evaluator
- ▶ Toxicology results

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## DRUG EVALUATION & CLASSIFICATION PROGRAM – VALIDATION – JOHNS HOPKINS STUDY

- ▶ **JOHNS HOPKINS Laboratory Validation Study (1984)**
  - ▶ 80 volunteers each took a "pill" and smoke a "cigarette"
  - ▶ The pill was one of the following:
    - ▶ a placebo
    - ▶ Secobarbital (300mg)
    - ▶ Diazepam – Valium (15 & 30mg)
    - ▶ D-amphetamine (Dexedrine 15 & 30mg)
  - ▶ The cigarette contained one of the following:
    - ▶ Placebo
    - ▶ 1.3 % THC
    - ▶ 2.8 % THC
  - ▶ Neither the officers nor the volunteers knew what had been taken

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## DRUG EVALUATION & CLASSIFICATION PROGRAM – VALIDATION – JOHNS HOPKINS STUDY – RESULTS!

- ▶ Correctly identified non-impaired subjects 95% of the time
- ▶ 98.7% of high dose subjects classified as impaired
- ▶ DRE procedures correction identified the category in more than 90% of the impaired subjects
- ▶ Less successful with low dose\*
  - ▶ 17.5% of the low dose d-amphetamines were classified impaired
  - ▶ 32.5% of the "weak" mj cigarettes were classified impaired
- ▶ Lab studies limit dose levels of drugs – usually doses are much less than seen at street levels
  - ▶ May have been missing signs of impairment would have seen from street level doses
- ▶ Other limitation is that only 4 DREs did the evals

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## DRUG EVALUATION & CLASSIFICATION PROGRAM – VALIDATION – LOS ANGELES FIELD STUDY

- ▶ 173 cases – persons arrested for suspected DUI
- ▶ 28 different DREs
- ▶ None involved in crashes so that injuries couldn't mimic symptoms
- ▶ 2 blood samples were taken with one going to LAPD lab and the other to an independent lab

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## DRUG EVALUATION & CLASSIFICATION PROGRAM – VALIDATION – LOS ANGELES FIELD STUDY

### ► RESULTS –

- 92.5% accuracy in “predicting” at least one of the category of drugs used.
- Poly-drug use
  - Diss Anesthetics – 92%
  - Narcs – 85%
  - Cannabis – 50%
  - CNS Depressants 50%
  - CNS Stimulants 33%\*

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- A study conducted in 1990 by DPS crime lab compiled records of the tox analysis corresponding to AZ DREs and found lab confirmation rate of 86.5%

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- ▶ Vital signs (bp, 2<sup>nd</sup> pulse, temp)
- ▶ Dark room examination
- ▶ Muscle tone examination
- ▶ Injection site examination (3<sup>rd</sup> pulse)
- ▶ Suspect's statements
- ▶ Opinion of the evaluator
- ▶ Toxicology results

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Suspect admitted using \_\_\_\_\_. Therefore  
DRE only called what Suspect said...

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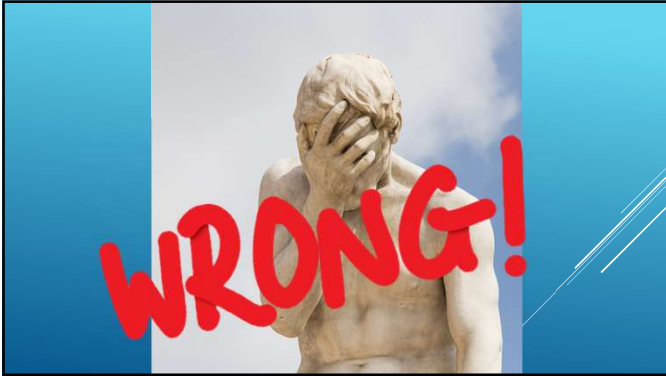
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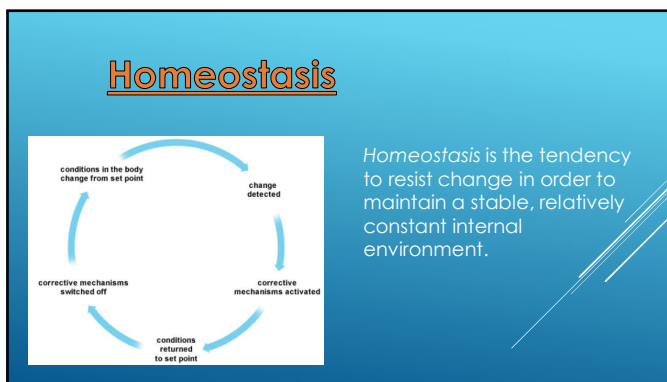
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## OPINION OF THE EVALUATOR

### Rule 704. Opinion on an Ultimate Issue

#### Current rules

(a) **In General—Not Automatically Objectionable.** An opinion is not objectionable just because it embraces an ultimate issue.

(b) **Exception.** In a criminal case, an expert witness must not state an opinion about whether the defendant did or did not have a mental state or condition that constitutes an element of the crime charged or of a defense. Those matters are for the trier of fact alone.

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#### DRUG EVALUATION AND CLASSIFICATION DRUG CATEGORY EXAMPLES

##### ANTI-DEPRESSANTS

Amphetamine (Adderall)  
Bupropion (Wellbutrin)  
Citalopram (Celexa)  
Doxepin (Sinequan)  
Escitalopram (Lexapro)  
Fluoxetine (Prozac)  
Paroxetine (Paxil)  
Sertraline (Zoloft)  
Venlafaxine (Effexor)  
Zolpidem (Ambien)

##### BARBITURATES

Secobarbital (Seconal)  
Phenobarbital (Luminal)  
Alprazolam (Xanax)  
Chlorazepate (Klonopin)  
Ethinamate (Procris)

##### CHOLINERGIC AGENTS

Donepezil (Aricept)  
Rivastigmine (Exelon)  
Tacrine (Tacrine)  
Varenicline (Chantrel)  
Vigabatrin (Sabril)  
Zinc (Zinc)  
Zinc (Zinc)

##### DISSOCIATIVE ANESTHETICS

Ketamine (Ketamine)  
Propofol (Propofol)  
Etomidate (Amidate)  
Fentanyl (Fentanyl)  
Midazolam (Versed)  
Nitrous Oxide (Nitrous Oxide)  
Sufentanil (Sufentanil)  
Thiopental (Pentothal)

##### COMBINATION

Amphetamine/Propylhexedrine (Adderall)  
Bupropion/Amphetamine (Wellbutrin XL)  
Citalopram/Escitalopram (Celexa)  
Doxepin/Sertraline (Sinequan)  
Escitalopram/Lexapro (Lexapro)  
Fluoxetine/Paroxetine (Prozac)  
Paroxetine/Venlafaxine (Paxil)  
Sertraline/Zoloft (Zoloft)  
Venlafaxine/Effexor (Effexor)

##### NON-BARBITURATE

Alprazolam (Xanax)  
Clonazepam (Klonopin)  
Ethinamate (Procris)  
Fentanyl (Fentanyl)  
Midazolam (Versed)  
Nitrous Oxide (Nitrous Oxide)  
Sufentanil (Sufentanil)  
Thiopental (Pentothal)

##### HALUCINOGENS

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Citalopram (Celexa)  
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##### ANTI-PSYCHOTIC DRUGS

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Citalopram (Celexa)  
Doxepin (Sinequan)  
Escitalopram (Lexapro)  
Fluoxetine (Prozac)  
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Sertraline (Zoloft)  
Venlafaxine (Effexor)

##### ANTI-ANXIETY AGENTS

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Bupropion (Wellbutrin)  
Citalopram (Celexa)  
Doxepin (Sinequan)  
Escitalopram (Lexapro)  
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Thank You!

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